

Chapter 5

Temporary Disability Benefits

➔ *For tips on how to “Keep Your Claim on Track,” see page 17. See also Chapter 9, “For More Information and Help.”*

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What are temporary disability benefits?

If your injury prevents you from doing your usual job while recovering, you may be eligible for temporary disability (TD) benefits. TD benefits are payments you receive if you lose wages because:

- Your treating doctor says you are unable to do your usual job for more than three days, or you are hospitalized overnight.
—and—
- Your employer does not offer you other work that pays your usual wages while you recover.

What are the different types of TD benefits?

There are two types of TD benefits:

- If you cannot work *at all* while recovering, you receive temporary *total* disability (TTD) payments.
- If you can do *some* work while recovering and your employer offers you this type of work, you receive temporary *partial* disability (TPD) payments.

How much are TD benefits?

As a general rule, TD benefits are two-thirds of the gross (pre-tax) wages you lose while you're recovering from a job injury. However, you can't receive more than a maximum weekly amount or less than a minimum weekly amount, as set by law.

You don't pay federal, state, or local income taxes on TD benefits. Also, you don't pay Social Security taxes, union dues, or retirement fund contributions on these benefits.

The information in this chapter gives you a rough idea of TD benefit amounts. Determining exact TD amounts can be complicated, especially for workers who:

- had a second job when injured
- had seasonal jobs
- had wages that rose or fell
- earned other income, such as tips, overtime, bonuses, housing, clothing, or car allowances
- were scheduled for a wage increase after the date of injury
- received TD benefits more than two years after the date of injury.

Other Benefits Besides TD

- If you are hurt on the job, your employer must pay for medical care to help you recover. See Chapter 2, "After You Get Hurt on the Job."
- You may be eligible for other financial assistance, such as State Disability Insurance, if TD payments are delayed or denied. To find out about these benefits, see Chapter 9.
- TD benefits are paid only while you are recovering. Some injured workers later receive other types of benefits. To find out about these other benefits, see Chapters 6, 7, and 8.
- All public employers and private employers with 50 or more employees must grant job-protected leave to workers who have a serious health problem or who need to care for a child or other family member. This is governed by the California Family Rights Act (CFRA) and the federal Family and Medical Leave Act (FMLA). Job-protected leave may run concurrently with time off work while receiving TD benefits.

What payments do I receive if I'm on TTD?

Temporary total disability (TTD) payments are usually two-thirds of the wages you were earning before you were injured.

Example: If the gross wages that you would be earning if you were not injured are \$300 per week, your TTD payments are \$200 per week.

Maximum Limits on TTD Payments

You can't receive more than a maximum weekly amount set by law. Therefore, if you earned more than a certain amount of wages before you were injured, you could receive *less* than two-thirds of those wages.

The maximum depends on your date of injury. Here are some examples:

- If your date of injury is in 2012 and your gross wages before injury were more than \$1,515.75 per week, your TTD payments are the maximum – \$1,010.50 per week.
- If your date of injury is in 2013 and your gross wages before injury were more than \$1,600.08 per week, your TTD payments are the maximum – \$1,066.72 per week.

For particular examples, see page 41.

Minimum TTD Payments for Low-Wage Workers

You can't receive less than a minimum weekly amount set by law. Therefore, if you earned less than a certain amount of wages before you were injured, you could receive *more* than two-thirds of those wages.

The minimum depends on your date of injury. Here are some examples:

- If your date of injury is in 2012 and your gross wages before injury were less than \$227.35 per week, your TTD payments are the minimum – \$151.57 per week.
- If your date of injury is in 2013 and your gross wages before injury were less than \$240.00 per week, your TTD payments are the minimum – \$160.00 per week.

For a particular example, see page 41.

What payments do I receive if I'm on TPD?

Your employer may offer you different work that you can do safely while recovering, or your employer may give you a reduced work schedule. (See Chapter 6, "Working for Your Employer After Injury.") If you don't earn as much as you did before you were injured, you may be eligible to receive temporary partial disability (TPD) payments. These are usually two-thirds of your lost wages.

Example: If the gross wages you were earning before you were injured were \$300 per week and you are now back at work making \$210 per week, your loss in wages is \$90 per week. Your TPD payments are \$60 per week (two-thirds of \$90).

As with TTD benefits, the law sets maximum limits and minimum amounts for TPD payments.

When do TD payments begin?

If your injury is covered by workers' compensation, your first TD payment is due within 14 days after your employer learns that:

- You have a job injury or illness
—and—
- Your treating doctor says your injury prevents you from doing your job.

You should receive this payment from the claims administrator. The claims administrator must also send you a letter explaining how the payment amount was calculated.

After the first payment, TD benefits must be paid every two weeks, for as long as you are eligible.

Notices About TD Payments

The claims administrator must keep you up to date by sending letters that explain:

- How TD payment amounts were determined
- Reasons for delay or nonpayment of TD benefits
- Reasons for changes in TD payment amounts
- Why TD benefits are ending (with a list of all TD benefits paid).

What happens if I don't get my payments on time?

Sometimes payments are delayed. If the claims administrator can't determine whether your injury is covered by workers' compensation or whether TD benefits must be paid, he or she may delay your first TD payment while investigating. A delay is usually not longer than 90 days.

If there is a delay, the claims administrator must send you a delay letter. It must explain:

- Why you won't receive payments within the first 14 days
- What information the claims administrator needs in order to decide if you are eligible for TD benefits
- When a decision will be made.

If there are further delays, the claims administrator must send you additional delay letters. (Even if you received delay letters, if the claims administrator doesn't send you a letter *denying* your claim within 90 days after you filed the claim form or reported your injury, your claim is considered accepted in most cases.)

Is the claims administrator required to pay a penalty for delays in TD payments?

It depends. The claims administrator must pay you an additional 10% of the payment, if:

- The claims administrator sends a payment late
—and—
- You filed a claim form for your injury more than 14 days before the payment was due.

This is true even if there was a reasonable excuse for the delay. However, there's no penalty if the claims administrator can't determine, in the first 14 days after your employer learned about your injury, whether TD benefits must be paid and sends you a delay letter as explained above.

You could be awarded a total of 25% of each late payment, up to \$10,000, if there was *no* reasonable excuse for the delay.

When do TD payments end?

TD payments end when:

- Your treating doctor says you can return to your usual job (whether or not you actually return to work)
—or—
- You return to your usual job or to modified or alternate work at your regular wages (or at wages associated with a maximum limit on TTD payments)
—or—
- You have reached a point where your condition is not improving and not getting worse. (When this happens, your condition is called “permanent and stationary.”)
—or—
- You were injured on or after January 1, 2008, and received 104 weeks of TD benefits. (Workers whose injuries involve acute and chronic hepatitis B, acute and chronic hepatitis C, amputations, severe burns, human immunodeficiency virus, high-velocity eye injuries, chemical burns to the eyes, pulmonary fibrosis, or chronic lung disease may receive up to 240 weeks of TD benefits.)

When TD payments end, the claims administrator must send you a letter explaining why the payments are ending. The letter must list all TD payments sent to you. This letter must be sent within 14 days after your final TD payment.

If your treating doctor says that you will never recover completely, you may be eligible to receive permanent disability benefits or a supplemental job displacement benefit. See Chapter 7, “Permanent Disability Benefits,” and Chapter 8, “Supplemental Job Displacement Benefits.”

Temporary Total Disability Payments — Some Examples

Occupation	Date of Injury	Gross Wages Before Injury	TTD Payments	Reason
Carpenter	2012	\$1,600 per week	\$1,010.50 per week	This is the maximum for workers injured in 2012
Line Worker	2013	\$1,700 per week	\$1,066.72 per week	This is the maximum for workers injured in 2013
Secretary	2013	\$1,200 per week	\$800 per week	This is two-thirds of the wages earned before injury
Baker and Janitor (1 person with 2 jobs)	2013	\$620 per week as baker, \$280 per week as janitor \$900 per week total	\$600 per week (if the injury was caused by the higher paying job)	This is two-thirds of the wages from both jobs combined
Nurse's Aide (part-time)	2013	\$200 per week	\$160 per week	This amount is paid if the worker earned less than \$240/week before injury (low wage worker)